



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश शासन द्वारा प्रकाशित

शिमला, बीरबार, 19 मई, 1960/29 वंशाल, 1882

HIMACHAL PRADESH ADMINISTRATION

—
LAW DEPARTMENT
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NOTIFICATION

Simla-4, the 16th March, 1960/26th Phalguna, 1881

No. LR. 16-12/58.—The Orissa Warehouse Act, 1956 (Orissa Act No. 4 of 1957) together with a copy of the Government of India, Ministry of Home Affairs Notification No. F. 8/2/58-Judl. II, dated 23rd January, 1960 *vide* which the Orissa Warehouse Act, 1956 with modifications has been extended to the Union Territory of Himachal Pradesh, is hereby republished in the Himachal Pradesh Administration Gazette for the information of the general public.

K. R. TANDON,
Under Secretary.

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 23rd January, 1960

G.S.R. 105.—In exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government hereby extends to the Union Territory of Himachal Pradesh the Orissa Warehouse Act, 1956 (Orissa Act 4 of 1957), as at present in force in the State of Orissa, subject to the following modifications, namely:—

MODIFICATIONS

1. Save as hereinafter provided, throughout the Act, for the words “State Government”, the words “Lieutenant Governor” shall be substituted.
2. In sub-section (2) of section 1, for the words “the State of Orissa”, the words “Himachal Pradesh” shall be substituted.
3. In section 2—
 - (i) for clause (a), the following clause shall be substituted, namely:—
“(a) “Co-operative Society” means a society registered or deemed to be registered under the Himachal Pradesh Co-operative Societies, Act, 1956;”
 - (ii) for clause (d), the following clause shall be substituted, namely:—
“(d) “Himachal Pradesh” means the Union Territory of Himachal Pradesh;”
 - (iii) after clause (e), the following clauses shall be inserted, namely:—
“(e-1) “Lieutenant Governor” means the Lieutenant Governor, Himachal Pradesh;
 - (e-2) “Notification” means a Notification in the Himachal Pradesh Gazette;”.
4. In sub-section (2) of section 5, for the word “Government”, the words “Lieutenant Governor” shall be substituted.
5. The *explanation* below section 15 (1) shall be omitted.
6. In section 18, for the words “fire, rain, floods, theft, riot or civil commotion” the words “fire or theft” shall be substituted.
7. In the proviso to section 19, for the words “the State”, the words “Himachal Pradesh” shall be substituted.
8. In section 33—
 - (a) in sub-section (1), after the word “may”, the words “by Notification and” shall be inserted;
 - (b) in sub-section (2), the words “add any article to, or omit any article from, the schedule or” shall be omitted.
9. For the Schedule, the following Schedule shall be substituted, namely:—

“SCHEDULE

[See section 2 (c)]

1. Food stuffs including condiments, dairy products and edible oil seeds;
2. Cotton, ginned or unginned and cotton seeds;

3. Cattle fodder including oil cakes and other concentrates;
4. Tobacco;
5. Hemp;
6. Forest products;
7. Raw materials and products of cottage industries;
8. Fertilisers and Agricultural implements;
9. Herbal Produce like Dhup, Karu and violet flowers;
10. Cloth, seeds, insecticides and pesticides;
11. Furniture, fixtures and building materials."

ANNEXURE

THE ORISSA WAREHOUSE ACT, 1956, AS EXTENDED TO THE UNION TERRITORY OF HIMACHAL PRADESH

ORISSA ACT 4 OF 1957

THE ORISSA WAREHOUSE ACT, 1956

An Act to provide for the establishment and regulation of warehouses in the State of Orissa

WHEREAS it is expedient to encourage the establishment of licensed warehouses and make provision for their proper supervision and control;

It is hereby enacted by the Legislature of the State of Orissa in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Orissa Warehouse Act, 1956.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the Lieutenant Governor may, by Notification, appoint in this behalf.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “Co-operative Society” means a society registered or deemed to be registered under the Himachal Pradesh Co-operative Societies Act, 1956;

(b) “depositor” means a person who tenders his goods to the warehouseman for storing in his warehouse and includes any person who lawfully holds the receipt issued by the warehouseman in respect of such goods and derives title thereto by a proper endorsement or transfer thereof to him by the depositor or the depositor’s lawful transferee;

(c) “goods” means any of the articles specified in the Schedule to this Act:

Provided that the Lieutenant Governor may by Notification add, to or omit any article from the Schedule;

(d) “Himachal Pradesh” means the Union Territory of Himachal Pradesh;

- (e) "licensed warehouse" means a warehouse licensed under this Act;
- (e-1) "Lieutenant Governor" means the Lieutenant Governor of Himachal Pradesh;
- (e-2) "Notification" means a Notification in the Himachal Pradesh Gazette;
- (f) "person" shall include any company or association or body corporate;
- (g) "prescribed" means prescribed rules made under this Act;
- (h) "receipt" means a warehouse receipt in the prescribed form issued by a warehouseman to a person depositing goods in the warehouse;
- (i) "warehouse" means any building, structure or other protected enclosure which is or may be used for the purpose of storing goods on behalf of depositors but does not include cloak rooms attached to hotels, railway stations, the premises of other public carriers and the like;
- (j) "warehouseman" means a person, who has obtained licence under this Act in respect of his warehouse.

CHAPTER II

LICENSING OF WAREHOUSES

3. *Warehouseman*.—No person shall carry on the business of a warehouseman except under licence granted under this Act and in accordance with such terms and conditions thereof as may, from time to time, be prescribed under this Act.

4. *Grant of Licence*.—(1) Application for a licence shall be made in the prescribed form to the prescribed authority.

(2) The prescribed authority may, on receiving such application and on payment of such fees as may be prescribed, grant a licence.

5. *Conditions for Licence*.—(1) Before granting a licence, the prescribed authority shall satisfy itself—

- (a) that the warehouse is suitable for proper storage of the class or classes of goods in respect of which the licence has been applied for;
- (b) that the applicant is competent to conduct such a warehouse;
- (c) that the applicant has paid the fee prescribed for the licence and has also paid the prescribed security, if any; and
- (d) that there is no other valid reason for which the applicant for the licence may, in the opinion of the prescribed authority, be deemed to be disqualified.

(2) The Lieutenant Governor may, by Notification, add to or alter the terms and conditions under which a licence is granted to a warehouseman under section 4.

6. *Term and renewal of licence*.—Every licence granted under section 4 shall be valid for such period as may be prescribed and may, on application and payment of the prescribed fee, be renewed from time to time by the prescribed authority and for such period as may be prescribed, provided the other conditions referred to in section 5 continue to be fulfilled.

7. *Notice of refusal to grant or renew licence*.—If the prescribed authority refuses to grant or renew a licence under the foregoing provisions, it shall

record its reasons for such refusal in writing and communicate the order to the applicant by forwarding a copy thereof.

8. *Suspension and cancellation of licence.*—Every licence granted under section 4 or renewed under section 6 shall be liable to be suspended or cancelled by the prescribed authority, if in its opinion—

- (a) the licensee has applied to be adjudicated, or been adjudicated, an insolvent; or
- (b) has parted, in whole or in part, with his control over the warehouse; or
- (c) has ceased to conduct such warehouse; or
- (d) has made unreasonable charges for the services rendered by him; or
- (e) has in any other manner become incompetent to conduct such warehouse; or
- (f) has contravened or failed to comply with any of the terms and conditions of the licence or any of the provisions of this Act and the Rules; or
- (g) has contravened any other prescribed ground.

9. *Notice of suspension and cancellation of licence.*—(1) Before making an order of suspension or cancellation of licence under section 8, the prescribed authority shall give notice to the licensee stating the grounds on which it is proposed to take action to show cause as to why his licence shall not be suspended or cancelled within such date as may be specified in the said notice.

(2) After considering the explanation, if any, offered under sub-section (1) the prescribed authority may pass such final order as it deems fit.

(3) If any license is suspended or cancelled; the prescribed authority shall make an entry to that effect in the licence.

10. *Return of licence.*—When a licence expires, or is suspended or cancelled the warehouseman shall cease to carry on the business of a warehouseman and shall return the licence to the prescribed authority, who shall give reasonable time to the warehouseman to enable him to wind up the business.

11. *Duplicate licence.*—(1) Where a licence granted to a warehouseman is lost, destroyed, torn, defaced or otherwise becomes illegible, the prescribed authority shall issue a duplicate licence on the application of the warehouseman and on payment of the prescribed fee.

(2) When a duplicate licence is issued, it shall be clearly stamped "Duplicate" and shall be marked with the date of issue of the duplicate and that of the original from the record of the office issuing the licence.

CHAPTER III

DUTIES OF A WAREHOUSEMAN

12. *Reasonable care of the goods deposited.*—Every warehouseman shall take such care of the goods deposited with him as a man of ordinary prudence would take of his own goods under similar circumstances and conditions.

13. *Precautions against damage or injury to goods.*—(1) Every warehouseman shall keep his warehouse clean and free from damp, take all necessary precautions against rats and other pests, and fulfill such other conditions as may be prescribed.

(2) No warehouseman shall accept goods for deposit which are likely to cause damage to other goods which are, or may be deposited in the warehouse.

14. *Preservation of identity of goods.*—Every warehouseman shall keep the goods of one depositor separate from the goods of other depositors and from other goods of the same depositor for which a separate receipt has been issued, in such a manner as to permit at all times of the identification and delivery of the goods deposited:

Provided that where standardised and graded goods are stored in a warehouse then subject to any agreement between the warehouseman and a depositor, the same variety of goods belonging to different depositors may be pooled together and each depositor shall be entitled only to his portion of the goods according to weight or quantity, as the case may be, as shown in his receipt.

15. *Goods deteriorating in warehouse and their disposal.*—(1) Whenever goods deposited in a warehouse deteriorate or are about to deteriorate from causes beyond the control of the warehouseman, he shall forthwith give notice of such deterioration to the depositor, requiring him to take delivery of the goods immediately, after surrendering the receipt duly discharged and paying all charges due to the warehouseman.

* * * * *

(2) If the depositor does not, within a reasonable time comply with a notice given to him under sub-section (1) the warehouseman may cause the goods to be removed from the warehouse and sold by public auction at the cost and risk of the depositor.

(3) Any person having an interest in any goods deposited in a warehouse or in the receipt for such goods may inform the warehouseman in writing of the fact and nature of his interest and the warehouseman shall keep a record thereof and if such person requests in writing that intimation be given to him regarding the condition of the goods and agree to pay the charges for giving such intimation, the warehouseman shall give him intimation accordingly.

16. *Delivery of goods.*—(1) Every warehouseman in the absence of reasonable excuse shall, without unnecessary delay, deliver the goods deposited in his warehouse to the depositor on demand made by him and surrender of the receipt duly discharged and payment of all charges due to the warehouseman.

(2) Subject to any agreement between the warehouseman and the depositor, the depositor may take partial delivery of the goods deposited in a warehouse.

17. *Liability of warehouseman for shortage or excess in goods stored.*—(1) For the purposes of sub-sections (1) and (2) of the foregoing section and sub-section (1) of section 15, loss of weight or bulk by dryage or shrinkage within the prescribed limits and gain in weight by absorption of moisture within such limits shall not be deemed to amount to deterioration.

(2) If there is any excess in the goods stored in a warehouse by absorption of moisture or other causes the warehouseman shall not be entitled thereto.

(3) If there is any shortage in the goods stored in a warehouse by dryage or other causes the warehouseman shall not be responsible therefor.

(4) In the event of a dispute arising as to whether such shortage or excess is due to other dryage or absorption of moisture or is due to other causes beyond the control of the warehouseman, the matter shall be referred to the appellate authority referred to in section 29 whose decision thereon shall be final and binding.

18. *Insurance of goods in warehouse.*—Goods in warehouses shall be insured against loss or damage by fire, or theft, or any other prescribed event, in such manner as may be prescribed.

19. *Discrimination prohibited.*—No warehouseman shall, in the conduct of his business, discriminate between persons desiring to avail themselves of the facilities of his warehouse:

Provided that the warehouseman shall show such preference to agricultural producers or Co-operative Societies of agricultural producers in Himachal Pradesh and allow them such concessions as may be prescribed.

Explanation.—A “Co-operative Society of agricultural producers” shall mean a society in which the majority of members are agricultural producers or the predominant interest is held by agricultural producers. In case of doubt whether the Society is one of agricultural producers or not within the meaning of the proviso of this section, the matter shall be referred to the Registrar of Co-operative Societies and his decisions shall be final.

20. *Warehouseman not to deal in or lend against goods in warehouse.*—Notwithstanding anything contained in any other law for the time being in force no warehouseman other than a Co-operative Society or the Central or any State Warehousing Corporation set up under the Agricultural Produce (Development and Warehousing) Corporation Act, 1956 (Act 28 of 1956), shall either on his own account or that of others, deal in or lend money on, goods received by him for deposit in its warehouse.

21. *Accounts, etc., to be maintained.*—A warehouseman shall maintain accounts, books and records in such form and manner as may be prescribed.

CHAPTER IV

INSPECTING AND GRADING OF GOODS

22. *Inspection.*—The prescribed authority may, at any time during business hours, inspect or examine or cause to be inspected or examined, any licensed warehouse, its machinery and equipment, goods deposited therein, and the account books and records relating thereto, for the purpose of satisfying itself that the requirements of this Act and the Rules are being complied with.

23. *Weighers, samplers and graders to obtain licences.*—(1) The prescribed authority may, on application made in the prescribed manner and on payment of the prescribed fee, issue licences to persons possessing the prescribed qualifications, entitling them to act as weighers, samplers, and graders of any goods deposited or to be deposited in a licensed warehouse and to issue certificates as to the weight, bulk, quality or grade of the goods which they have examined.

(2) Any certificate so issued shall, subject to the provisions of section 24 be binding on the warehouseman and the depositor as to the weight, bulk, quality or grade of the goods so certified.

(3) No person who is not licensed under this section shall act, or hold himself out, as weigher, sampler or grader.

24. *Provisions regarding such licences.*—(1) Every licence granted to a weigher, sampler, or grader under section 23 shall be valid for such period as may be prescribed and may, on application and payment of the prescribed fee, be renewed from time to time for the prescribed period by the prescribed authority.

(2) The prescribed authority may cancel any such licence, after communicating to the licensee the grounds on which it is proposed to take action and giving him a reasonable opportunity of showing cause against it.

(3) The prescribed authority may, however, suspend any such licence pending any action under sub-section (2).

(4) The holder of any such licence shall, on the expiry thereof or the receipt of an order suspending or cancelling it, return the licence to the prescribed authority.

25. *Facilities to be given for weighing goods etc.*—Every warehouseman, shall provide facilities for weighing, sampling and grading any goods deposited in his warehouse.

CHAPTER V

WAREHOUSE RECEIPTS

26. *Receipt to be issued.*—For the goods deposited in the warehouse by each depositor, the warehouseman shall issue a receipt which shall contain full particulars of the goods and be in the prescribed form.

27. *Receipts for deposits in warehouses.*—The receipt issued by a warehouseman shall, unless it is otherwise specified thereon, be transferable by endorsement and shall entitle the lawful holder thereof to receive the goods specified in on the same terms and conditions as the original depositor.

Explanation.—The provisions of this sub-section shall not apply to any receipt issued by a person who has not obtained a licence under this Act.

28. *Duplicate Receipt.*—If a receipt is lost, destroyed or damaged, the warehouseman shall, on application by the depositor and payment by him of the prescribed fee, issue a duplicate receipt on such conditions as he may think fit to impose, being conditions included in rules prescribed for the purpose.

CHAPTER VI

MISCELLANEOUS

29. *Appeals against certain orders of prescribed authority.*—(1) An appeal against any order of the prescribed authority refusing to grant or renew a licence or suspending or cancelling any such licence in respect of a warehouseman shall be made to such authority and within such time as may be prescribed.

(2) The decision of such appellate authority shall be final.

30. *No compensation for suspension or cancellation of licence.*—Where any licence is suspended or cancelled under this Act, the licensee shall not be entitled to any compensation therefor, nor shall he be entitled to the refund of any fee paid by him for the licence.

31. *Contracts and agreements inconsistent with Act to be void.*—Every contract or agreement which is inconsistent with the provisions of this Act or the Rules made thereunder, shall, to the extent of such inconsistency, be void.

32. *Penalty and procedure.*—(1) Whoever—

(a) acts, or holds himself out, as a licensed warehouseman without having obtained a licence under this Act; or

(b) knowingly contravenes or fails to comply with any of the provisions or requirements of this Act or the rules; shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

(2) Where a person committing an offence under sub-section (1) is a company or an association or a body of persons, whether incorporated or not,

the Manager, Secretary, Agent or other principal officer, managing the affairs of such company, association or body, shall be deemed to be guilty of such offence.

33. *Rules.*—(1) The Lieutenant Governor may by Notification and subject to the condition of previous publication, make Rules to carry out the purposes of this Act..

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the matters expressly required or allowed by this Act to be prescribed;
- (b) the conditions to be inserted in licences to be granted to warehouseman and the form of such licences;
- (c) the publication of the grant, suspension or cancellation of licences to warehousemen and of consolidated lists of warehousemen and licensed warehouses;
- (d) the charges to be levied by warehousemen for their services;
- (e) the books, accounts and records to be maintained by warehouseman;
- (f) the conduct of public auctions for the sale of goods deteriorating or about to deteriorate in licensed warehouses and the manner in which the proceeds of such sales shall be accounted for;
- (g) the scales of losses and gains of weight or bulk which may be sustained by goods owing to shrinkage or dryage in the one case and owing to absorption of moisture in the other;
- (h) the disinfection of licensed warehouses and the disinfestation of goods stored therein;
- (i) the circumstances in which any security or bond furnished by a warehouseman may be forfeited, and the manner in which any sum falling due as a result of such forfeiture may be recovered;
- (j) the efficient conduct generally of the business of warehousemen;
- (k) the qualifications to be possessed by persons applying for the grant of licences as weighers, samplers or graders, the conditions to be inserted in their licences, the form of the certificates to be issued by them and the grounds for which the licences may be suspended or cancelled;
- (l) the standard weights, measures and gradations of goods to be used in licensed warehouses;
- (m) the authority to which and the time within which an appeal under section 29 should be made;
- (n) the manner of giving notices under this Act.

SCHEDULE

[See section 2 (c)]

1. Food stuffs including condiments, dairy products and edible oil seeds;

2. Cotton, ginned or unginned and cotton seeds;
3. Cattle fodder including oil cakes and other concentrates;
4. Tobacco;
5. Hemp;
6. Forest products.
7. Raw materials and products of cottage industries;
8. Fertilizers and Agricultural Implements;
9. Herbal produce like Dhup, Karu and violet flowers;
10. Cloth, seeds, insecticides and pesticides;
11. Furniture, fixtures and building materials.

(No. F. 8/2/58-J. II, U.T.L. 17)

K. R. PRABHU,
Deputy Secretary.